FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

**CRIMINAL WRIT PETITION NO.769 OF 2006**

| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders |
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Mr.Kuldeep S.Patil for the petitioner.

Mr.Rajesh More APP for the State.

**Coram : R.S.Mohite,J**

Date : 17.4.2006.

PC

1. This is a petition impugning an order on an application made by the original Complainant under Section 311 of Cr.P.C. The application made by the Complainant sought his own recall for the purpose of re-examination. The application was made because at the stage of argument the accused sought to rely upon the statement of the Complainant which according to the accused suggested that the Complainant had sent an earlier notice after earlier

presentation of the cheque in question. It appears to be the argument on behalf of the accused that the cheque was again presented for the 2nd time and case was filed after 2nd notice which was not permissible in law. The Complainant stated that no earlier notice was issued and the accused in his evidence has also not produced any earlier notice said to have been sent to him. The application is said to remove ambiguity. In my view, not a fit case to interfere because admittedly accused stepped into the witness box and led his evidence and has not mentioned about his receiving the 1st notice. On the contrary, he admitted that he learnt about dis-honoured of the cheque after receiving the only notice relied upon by the Complainant in his complaint. Hence, petition is rejected.

**(R.S.Mohite,J)**